

**BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the First Amended)
Accusation and Petition to Revoke Probation))
Against:)

WALTER J. LEDERGERBER, M.D.)

File No. D1-1998-92607

Physician's and Surgeon's)
Certificate No. A-32530)

Respondent)
_____)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Division of Medical Quality of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 4, 2007.

IT IS SO ORDERED August 3, 2007.

MEDICAL BOARD OF CALIFORNIA

By: _____

Barbara Yaroslavy
Barbara Yaroslavy, Chair
Panel B
Division of Medical Quality

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 PAUL C. AMENT

Supervising Deputy Attorney General

3 E. A. JONES III, State Bar No. 71375

Deputy Attorney General

4 California Department of Justice

300 So. Spring Street, Suite 1702

5 Los Angeles, CA 90013

Telephone: (213) 897-2543

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7 Attorneys for Complainant

8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the First Amended Accusation
14 and Petition to Revoke Probation Against:

15 WALTER J. LEDERGERBER, M.D.

31 Morningwood

16 Laguna Niguel, CA 92677

17 Physician & Surgeon Certificate No. A 32530

18 Respondent.

Case No. D1-1998-92607

OAH No. L-1999120407

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

19 In the interest of settlement of this matter, consistent with the public interest and
20 the responsibility of the Division of Medical Quality, Medical Board of California of the
21 Department of Consumer Affairs, the parties hereby agree to the following Stipulated Settlement
22 and Disciplinary Order which will be submitted to the Division for approval and adoption as the
23 final disposition of the Accusation

24 **PARTIES**

25 1. David T. Thornton (Complainant) is the Executive Director of the Medical
26 Board of California. He brought this action solely in his official capacity and is represented in
27 this matter by Edmund G. Brown Jr., Attorney General of the State of California, by E. A. Jones
28 III, Deputy Attorney General.

2. Respondent Walter J. Ledergerber, M.D. (Respondent) is represented in this proceeding by attorney Albert Garcia, whose address is Law Offices, 1995 University Avenue, Suite 265, Berkeley, CA 94704.

3. On or about July 1, 1978, the Medical Board of California issued Physician & Surgeon Certificate No. A 32530 to Walter J. Ledergerber, M.D. (Respondent). The Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. D1-1998-92607 and will expire on June 30, 2008, unless renewed.

JURISDICTION

4. First Amended Accusation and Petition to Revoke Probation No. D1-1998-92607 was filed before the Division of Medical Quality (Division) for the Medical Board of California, Department of Consumer Affairs, and is currently pending against Respondent. The First Amended Accusation and Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on March 9, 2005. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of First Amended Accusation and Petition to Revoke Probation No. D1-1998-92607 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation and Petition to Revoke Probation No. D1-1998-92607. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation and Petition to Revoke Probation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other

applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in paragraphs 22 through 24, 38 through 40, 51 through 53, paragraphs 65 through 67 and paragraph 68 in First Amended Accusation and Petition to Revoke Probation No. D1-1998-92607.

9. Respondent agrees that his Physician & Surgeon Certificate is subject to discipline and he agrees to be bound by the Division's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Division of Medical Quality, Medical Board of California, or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

PROHIBITED PRACTICE

11. Respondent suffered a cerebral vascular accident (stroke) in May 2004. Consequently, Respondent agrees that during and after probation, he will not perform plastic or cosmetic surgery or any other type of surgery under his certificate as a physician and surgeon issued by the Medical Board of California. Respondent further agrees that a violation of this paragraph would constitute unprofessional conduct and a basis for disciplinary action by the Medical Board of California.

CONTINGENCY

12. This stipulation shall be subject to approval by the Division of Medical Quality. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Division regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By

1 signing the stipulation, Respondent understands and agrees that he may not withdraw his
2 agreement or seek to rescind the stipulation prior to the time the Division considers and acts upon
3 it. If the Division fails to adopt this stipulation as its Decision and Order, the Stipulated
4 Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall
5 be inadmissible in any legal action between the parties, and the Division shall not be disqualified
6 from further action by having considered this matter.

7 13. The parties understand and agree that facsimile copies of this Stipulated
8 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
9 force and effect as the originals.

10 14. In consideration of the foregoing admissions and stipulations, the parties
11 agree that the Division may, without further notice or formal proceeding, issue and enter the
12 following Disciplinary Order:

13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Physician & Surgeon Certificate No. A 32530
15 issued to Respondent Walter J. Ledergerber, M.D. is revoked. However, the revocation is
16 stayed. Within 180 calendar days of the effective date of this Decision, respondent shall undergo
17 a Medical evaluation by a Division-appointed physician who shall consider any information
18 provided by the Division or designee, and any other information the evaluating physician deems
19 relevant, and shall furnish a Medical report to the Division or its designee. Respondent shall pay
20 the cost of the Medical evaluation. Respondent shall not practice medicine until notified in
21 writing that he has successfully completed the Physician Assessment and Clinical Education
22 Program and Medical Record Keeping Course at the University of California, San Diego School
23 of Medicine, as more fully set forth in Terms 1 and 2 below.

24 Following the evaluation, if respondent is found to be physically incapable of
25 resuming the practice of medicine without restrictions, the Division shall, without further notice
26 or formal proceeding, dissolve the stay and revoke respondent's physician and surgeon certificate
27 to practice medicine in the State of California.

28 Following the evaluation, if Respondent is found medically fit to practice

1 medicine safely, Respondent will be placed on probation for seven years starting from the date of
2 the Medical Board's written notice to Respondent of the results of the evaluation, on the
3 following terms and conditions.

4 1. PHYSICIAN ASSESSMENT AND CLINICAL EDUCATION

5 PROGRAM Within 60 days from the effective date of this decision or within 60 days of
6 receiving notice pursuant to paragraph 4 that respondent is medically fit to practice medicine
7 safely, whichever is later, respondent, at his expense, shall enroll in the Physician Assessment
8 and Clinical Education Program at the University of California, San Diego School of Medicine
9 (hereinafter the "PACE Program").

10 The Program shall consist of a Comprehensive Assessment program comprised of
11 a two-day assessment of respondent's physical and mental health; basic clinical and
12 communication skills common to all clinicians; and medical knowledge, skill and judgment
13 pertaining to respondent's specialty or sub-specialty (otolaryngology), and at minimum, a 40
14 hour program of clinical education in the area of otolaryngology and which takes into account
15 data obtained from the assessment, Decision(s), Accusation(s), and any other information that the
16 Division or its designee deems relevant. Respondent shall pay all expenses associated with the
17 clinical training program.

18 Based on respondent's performance and test results in the assessment and clinical
19 education, the Program will advise the Division or its designee of its recommendation(s) for the
20 scope and length of any additional educational or clinical training, treatment for any medical
21 condition, treatment for any psychological condition, or anything else affecting respondent's
22 practice of medicine. Respondent shall comply with Program recommendations.

23 At the completion of any additional educational or clinical training, respondent
24 shall submit to and pass an examination. The Program's determination whether or not
25 respondent passed the examination or successfully completed the Program shall be binding.

26 Respondent shall complete the Program not later than six months after
27 respondent's initial enrollment unless the Division or its designee agrees in writing to a later time
28 for completion.

1 Failure to participate in and complete successfully all phases of the clinical
2 training program outlined above is a violation of probation.

3 Respondent shall not practice medicine until respondent has successfully
4 completed the Program and its medical record keeping course, as set forth in Term 2 below, and
5 has been so notified by the Division or its designee in writing, except that respondent may
6 practice in a clinical training program approved by the Division or its designee. Respondent's
7 practice of medicine shall be restricted only to that which is required by the approved training
8 program.

9 If respondent fails to complete the clinical training program within the designated
10 time period, respondent shall cease the practice of medicine within 72 hours after being notified
11 by the Division or its designee that respondent failed to complete the clinical training program.

12 2. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of
13 the effective date of this decision or within 60 days of receiving notice pursuant to paragraph 4
14 that respondent is medically fit to practice medicine safely, whichever is later, respondent shall
15 enroll in the course in Medical record keeping offered by the University of California, San Diego
16 School of Medicine PACE Program, at respondent's expense. Failure to successfully complete
17 the course during the first 6 months of probation is a violation of probation.

18 A Medical record keeping course taken after the acts that gave rise to the charges
19 in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the
20 Division or its designee, be accepted towards the fulfillment of this condition if the course would
21 have been approved by the Division or its designee had the course been taken after the effective
22 date of this Decision.

23 Respondent shall submit a certification of successful completion to the Division
24 or its designee not later than 15 calendar days after successfully completing the course, or not
25 later than 15 calendar days after the effective date of the Decision, whichever is later.

26 3. PROHIBITED PRACTICE During probation, respondent is prohibited
27 from performing plastic or cosmetic surgery or any other type of surgery. After the effective
28 date of this Decision, the first time that a patient seeking the prohibited services makes an

1 appointment, respondent shall orally notify the patient that respondent does not perform plastic
2 or cosmetic surgery or any other type of surgery. Respondent shall maintain a log of all patients
3 to whom the required oral notification was made. The log shall contain the: 1) patient's name,
4 address and phone number; 2) patient's medical record number, if available; 3) the full name of
5 the person making the notification; 4) the date the notification was made; and 5) a description of
6 the notification given. Respondent shall keep this log in a separate file or ledger, in
7 chronological order, shall make the log available for immediate inspection and copying on the
8 premises at all times during business hours by the Division or its designee, and shall retain the
9 log for the entire term of probation. Failure to maintain a log as defined in the section, or to
10 make the log available for immediate inspection and copying on the premises during business
11 hours is a violation of probation.

12 In addition to the required oral notification, after the effective date of this
13 Decision, the first time that a patient who seeks the prohibited services presents to respondent,
14 respondent shall provide a written notification to the patient stating that respondent does not
15 perform plastic or cosmetic surgery or any other type of surgery. Respondent shall maintain a
16 copy of the written notification in the patient's file, shall make the notification available for
17 immediate inspection and copying on the premises at all times during business hours by the
18 Division or its designee, and shall retain the notification for the entire term of probation. Failure
19 to maintain the written notification as defined in the section, or to make the notification available
20 for immediate inspection and copying on the premises during business hours is a violation of
21 probation.

22 4. MEDICAL EVALUATION AND TREATMENT On a periodic basis
23 during probation, as may be required by the Division or its designee, respondent shall undergo a
24 medical evaluation by a Division-appointed physician who shall consider any information
25 provided by the Division or designee, and any other information the evaluating physician deems
26 relevant, and shall furnish a medical report to the Division or its designee.

27 Following the evaluation, respondent shall comply with all restrictions or
28 conditions recommended by the evaluating physician within 15 calendar days after being notified

1 by the Division or its designee.

2 If respondent is required by the Division or its designee to undergo medical
3 treatment, respondent shall, within 30 calendar days of the requirement notice, submit to the
4 Division or its designee for prior approval the name and qualifications of a treating physician of
5 respondent's choice. Upon approval of the treating physician, respondent shall within 15
6 calendar days undertake medical treatment and shall continue such treatment until further notice
7 from the Division or its designee.

8 The treating physician shall consider any information provided by the Division or
9 its designee or any other information the treating physician may deem pertinent prior to
10 commencement of treatment. Respondent shall have the treating physician submit quarterly
11 reports to the Division or its designee indicating whether or not the respondent is capable of
12 practicing medicine safely. Respondent shall provide the Division or its designee with any and
13 all medical records pertaining to treatment that the Division or its designee deems necessary.

14 If, prior to the completion of probation, respondent is found to be physically
15 incapable of resuming the practice of medicine without restrictions, the Division shall retain
16 continuing jurisdiction over respondent's license, and the period of probation shall be extended
17 until the Division determines that respondent is physically capable of resuming the practice of
18 medicine without restrictions. Respondent shall pay the cost of the medical evaluation(s) and
19 treatment.

20 Failure to undergo and continue medical treatment or comply with the required
21 additional conditions or restrictions is a violation of probation.

22 5. NOTIFICATION Prior to engaging in the practice of medicine, the
23 respondent shall provide a true copy of the Decision(s) and Accusation(s) to the Chief of Staff or
24 the Chief Executive Officer at every hospital where privileges or membership are extended to
25 respondent, at any other facility where respondent engages in the practice of medicine, including
26 all physician and locum tenens registries or other similar agencies, and to the Chief Executive
27 Officer at every insurance carrier which extends malpractice insurance coverage to respondent.
28 Respondent shall submit proof of compliance to the Division or its designee within 15 calendar

1 days.

2 This condition shall apply to any change(s) in hospitals, other facilities or
3 insurance carrier.

4 6. SUPERVISION OF PHYSICIAN ASSISTANTS During probation,
5 respondent is prohibited from supervising physician assistants.

6 7. OBEY ALL LAWS Respondent shall obey all federal, state and local
7 laws, all rules governing the practice of medicine in California, and remain in full compliance
8 with any court ordered criminal probation, payments and other orders.

9 8. QUARTERLY DECLARATIONS Respondent shall submit quarterly
10 declarations under penalty of perjury on forms provided by the Division, stating whether there
11 has been compliance with all the conditions of probation. Respondent shall submit quarterly
12 declarations not later than 10 calendar days after the end of the preceding quarter.

13 9. PROBATION UNIT COMPLIANCE Respondent shall comply with the
14 Division's probation unit. Respondent shall, at all times, keep the Division informed of
15 respondent's business and residence addresses. Changes of such addresses shall be immediately
16 communicated in writing to the Division or its designee. Under no circumstances shall a post
17 office box serve as an address of record, except as allowed by Business and Professions Code
18 section 2021(b).

19 Respondent shall not engage in the practice of medicine in respondent's place of
20 residence. Respondent shall maintain a current and renewed California physician's and
21 surgeon's license.

22 Respondent shall immediately inform the Division, or its designee, in writing, of
23 travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last,
24 more than 30 calendar days.

25 10. INTERVIEW WITH THE DIVISION, OR ITS DESIGNEE Respondent
26 shall be available in person for interviews either at respondent's place of business or at the
27 probation unit office, with the Division or its designee, upon request at various intervals, and
28 either with or without prior notice throughout the term of probation.

1 11. RESIDING OR PRACTICING OUT-OF-STATE In the event respondent
2 should leave the State of California to reside or to practice, respondent shall notify the Division
3 or its designee in writing 30 calendar days prior to the dates of departure and return. Non-
4 practice is defined as any period of time exceeding 30 calendar days in which respondent is not
5 engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
6 Code.

7 All time spent in an intensive training program outside the State of California
8 which has been approved by the Division or its designee shall be considered as time spent in the
9 practice of medicine within the State. A Board-ordered suspension of practice shall not be
10 considered as a period of non-practice. Periods of temporary or permanent residence or practice
11 outside California will not apply to the reduction of the probationary term. Periods of temporary
12 or permanent residence or practice outside California will relieve respondent of the responsibility
13 to comply with the probationary terms and conditions with the exception of this condition and
14 the following terms and conditions of probation: Obey All Laws and Probation Unit
15 Compliance.

16 Respondent's license shall be automatically canceled if respondent's periods of
17 temporary or permanent residence or practice outside California total two years. However,
18 respondent's license shall not be canceled as long as respondent is residing and practicing
19 medicine in another state of the United States and is on active probation with the medical
20 licensing authority of that state, in which case the two year period shall begin on the date
21 probation is completed or terminated in that state.

22 12. FAILURE TO PRACTICE MEDICINE - CALIFORNIA RESIDENT

23 In the event respondent resides in the State of California and for any reason
24 respondent stops practicing medicine in California, respondent shall notify the Division or its
25 designee in writing within 30 calendar days prior to the dates of non-practice and return to
26 practice. Any period of non-practice within California, as defined in this condition, will not
27 apply to the reduction of the probationary term and does not relieve respondent of the
28 responsibility to comply with the terms and conditions of probation. Non-practice is defined as

1 any period of time exceeding 30 calendar days in which respondent is not engaging in any
2 activities defined in sections 2051 and 2052 of the Business and Professions Code.

3 All time spent in an intensive training program which has been approved by the
4 Division or its designee shall be considered time spent in the practice of medicine. For purposes
5 of this condition, non-practice due to a Board-ordered suspension or in compliance with any
6 other condition of probation, shall not be considered a period of non-practice.

7 Respondent's license shall be automatically canceled if respondent resides in
8 California and for a total of two years, fails to engage in California in any of the activities
9 described in Business and Professions Code sections 2051 and 2052.

10 13. COMPLETION OF PROBATION Respondent shall comply with all
11 financial obligations (e.g., probation costs) not later than 120 calendar days prior to the
12 completion of probation. Upon successful completion of probation, respondent's certificate shall
13 be fully restored.

14 14. VIOLATION OF PROBATION Failure to fully comply with any term or
15 condition of probation is a violation of probation. If respondent violates probation in any respect,
16 the Division, after giving respondent notice and the opportunity to be heard, may revoke
17 probation and carry out the disciplinary order that was stayed. If an Accusation, Petition to
18 Revoke Probation, or an Interim Suspension Order is filed against respondent during probation,
19 the Division shall have continuing jurisdiction until the matter is final, and the period of
20 probation shall be extended until the matter is final.

21 15. LICENSE SURRENDER Following the effective date of this Decision, if
22 respondent ceases practicing due to retirement, health reasons or is otherwise unable to satisfy
23 the terms and conditions of probation, respondent may request the voluntary surrender of
24 respondent's license. The Division reserves the right to evaluate respondent's request and to
25 exercise its discretion whether or not to grant the request, or to take any other action deemed
26 appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender,
27 respondent shall within 15 calendar days deliver respondent's wallet and wall certificate to the
28 Division or its designee and respondent shall no longer practice medicine. Respondent will no

Mar 28 07 12:09p Ledergerber

(510) 891-8708

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47 12:23 FROM: ALBERT GARCIA

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TO: 510 891 8708

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ATTY GENERAL OFFICE

213 897 6326


F.015

1 longer be subject to the terms and conditions of probation and the surrender of respondent's
2 license shall be deemed disciplinary action. If respondent re-applies for a medical license, the
3 application shall be treated as a petition for reinstatement of a revoked certificate.
4 16. PROBATION COSTS Respondent shall pay the costs associated with
5 probation monitoring each and every year of probation, as designated by the Division. Such
6 costs, which may be adjusted on an annual basis, shall be payable to the Medical Board of
7 California and delivered to the Division or its designee no later than January 31 of each calendar
8 year. Failure to pay costs within 30 calendar days of the due date is a violation of probation.

ACCEPTANCE


11 I have carefully read the above Stipulated Settlement and Disciplinary Order and
12 have fully discussed it with my attorney, Albert Garcia. I understand the stipulation and the
13 effect it will have on my Physician & Surgeon Certificate. I enter into this Stipulated Settlement
14 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
15 Decision and Order of the Division of Medical Quality, Medical Board of California.

16 DATED: 5-27-07

17 
18 WALTER J. LEDERGERBER, M.D.
19 Respondent

20 I have read and fully discussed with Respondent Walter J. Ledergerber, M.D. the
21 terms and conditions and other matters contained in the above Stipulated Settlement and
22 Disciplinary Order. I approve its form and content.

23 DATED: 3/27/07

24 
25 ALBERT GARCIA
26 Attorney for Respondent
27
28

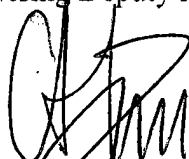
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Division of Medical Quality, Medical Board of California of the Department of Consumer Affairs.

DATED: 3/28/07

EDMUND G. BROWN JR., Attorney General
of the State of California
PAUL C. AMENT
Supervising Deputy Attorney General



E. A. JONES III
Deputy Attorney General

Attorneys for Complainant

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Exhibit A

**First Amended Accusation and Petition to Revoke Probation No.
D1-1998-92607**

1 BILL LOCKYER, Attorney General
of the State of California
2 E. A. JONES III, State Bar No. 71375
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6 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 9, 2003
BY Janita L. Moore

7
8 **BEFORE THE**
9 **DIVISION OF MEDICAL QUALITY**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. D1-1998-92607

12 WALTER J. LEDERGERBER, M.D.
31 Morningwood
13 Laguna Niguel, CA 92677

14 Physician and Surgeon's Certificate No. A32530

**FIRST AMENDED
ACCUSATION and
PETITION TO REVOKE
PROBATION**

15 Respondent.

16
17
18 Complainant alleges:

19 **PARTIES**

20 1. David T. Thornton (Complainant) brings this First Amended Accusation
21 and Petition to Revoke Probation solely in his official capacity as the Executive Director of the
22 Medical Board of California, Department of Consumer Affairs.

23 2. On or about July 1, 1978, the Medical Board of California (Board) issued
24 Physician and Surgeon's Certificate Number A 32530 to Walter J. Ledergerber, M.D.
25 (Respondent). The certificate was in effect at all times relevant to the charges brought herein,
26 and will expire on June 30, 2006, unless renewed.

27 3. A disciplinary action entitled *In the Matter of the Accusation Against*
28 *Walter Joseph Ledergerber, M.D.*, Case No. 04-1998-92607, was filed against Respondent. The

1 Division of Medical Quality, Medical Board of California ("Division"), issued a decision in the
2 case, effective July 17, 2000, in which Respondent's Physician's and Surgeon's Certificate was
3 revoked. However, the revocation was stayed and Respondent's certificate was placed on
4 probation for a period of two (2) years with certain terms and conditions. By operation of the
5 terms and conditions of probation, respondent's term of probation has continued pending the
6 resolution of the instant First Amended Accusation and Petition to Revoke Probation. A copy of
7 that decision is attached as Exhibit "A" and is incorporated by reference.

8 JURISDICTION

9 4. This First Amended Accusation and Petition to Revoke Probation is
10 brought before the Board's Division of Medical Quality, Medical Board of California (Division),
11 under the authority of the following sections of the Business and Professions Code (Code).

12 5. Section 2227 of the Code provides that the Board may revoke, suspend for
13 a period not to exceed one year, place on probation and require the licensee to pay the costs of
14 probation monitoring, or take such further action in relation to discipline as the Division deems
15 proper against any licensee who has been found guilty under the Medical Practice Act.

16 6. Section 2234 of the Code states:

17 "The Division of Medical Quality shall take action against any licensee who is
18 charged with unprofessional conduct. In addition to other provisions of this article,
19 unprofessional conduct includes, but is not limited to, the following:

20 "(a) Violating or attempting to violate, directly or indirectly, or assisting in or
21 abetting the violation of, or conspiring to violate, any provision of this chapter [Chapter
22 5, the Medical Practice Act].

23 "(b) Gross negligence.

24 "(c) Repeated negligent acts.

25 "(d) Incompetence.

26 "(e) The commission of any act involving dishonesty or corruption which is
27 substantially related to the qualifications, functions, or duties of a physician and surgeon.

28 "(f) Any action or conduct which would have warranted the denial of a

1 certificate.”

2 7. Section 2266 of the Code provides that the failure of a physician and
3 surgeon to maintain adequate and accurate records relating to the provision of services to their
4 patients constitutes unprofessional conduct.

5 8. Section 822 of the Code provides, in pertinent part:

6 “If a licensing agency determines that its licentiate’s ability to practice his or her
7 profession safely is impaired because the licentiate is mentally ill, or physically ill
8 affecting competency, the licensing agency may take action by any one of the following
9 methods:

10 (a) Revoking the licentiate’s certificate or license.

11 (b) Suspending the licentiate’s right to practice.

12 (c) Placing the licentiate on probation.

13 (d) Taking such other action in relation to the licentiate as the licensing agency
14 in its discretion deems proper....”

15 9 Section 125.3 of the Code provides, in pertinent part, that the Division
16 may request the administrative law judge to direct a licentiate found to have committed a
17 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
18 investigation and enforcement of the case.

19 10. Section 14124.12 of the Welfare and Institutions Code states, in pertinent
20 part:

21 “(a) Upon receipt of written notice from the Medical Board of California, the
22 Osteopathic Medical Board of California, or the Board of Dental Examiners of California,
23 that a licensee’s license has been placed on probation as a result of a disciplinary action,
24 the department may not reimburse any Medi-Cal claim for the type of surgical service or
25 invasive procedure that gave rise to the probation, including any dental surgery or
26 invasive procedure, that was performed by the licensee on or after the effective date of
27 probation and until the termination of all probationary terms and conditions or until the
28 probationary period has ended, whichever occurs first. This section shall apply except in

1 any case in which the relevant licensing board determines that compelling circumstances
2 warrant the continued reimbursement during the probationary period of any Medi-Cal
3 claim, including any claim for dental services, as so described. In such a case, the
4 department shall continue to reimburse the licensee for all procedures, except for those
5 invasive or surgical procedures for which the licensee was placed on probation.”
6

7 FIRST CAUSE FOR DISCIPLINE

8 (Gross Negligence)

9 11. Respondent is subject to disciplinary action under section 2234, subsection
10 (b), in that he committed acts of gross negligence in the care and treatment of patient A.M.¹ The
11 circumstances are as follows:

12 12. On or about October 31, 1996, Respondent saw patient A.M., a female
13 patient who was 27 years old at the time, for consideration of breast implants. Preoperatively,
14 Respondent identified an asymmetry of the patient's chest wall and breasts consistent with a
15 tubular breast deformity of the right breast. Respondent noted that the right breast was larger than
16 the left. Respondent's consultation notes indicate that he recommended that the implants be
17 placed submuscularly.

18 13. On or about December 2, 1996, Respondent performed a bilateral breast
19 augmentation on patient A.M. During the procedure, Respondent placed a larger breast implant
20 on the right (larger) breast than the implant he placed on the left breast. Respondent did no
21 procedure to correct the abnormal shape of the right breast. Thereafter, due to poor results of this
22 initial procedure, Respondent operated on the patient's breasts eight additional times in attempts
23 to correct the asymmetry and to cure repeated seromas (accumulation of serum) on the right
24 breast.

25 14. Respondent failed to provide narrative operative summaries describing
26

27 1. The names of patients are not included here to protect their privacy rights.
28 Respondent will be provided with the names of all patients upon receipt of his written request
for discovery.

1 precisely what he had done in each procedure, and wrote few post-operative notes. Respondent
2 also failed to note whether he placed the breast implants in a position above or below the muscle.

3 15. Respondent committed acts of gross negligence in the care and treatment
4 of patient A.M. as follows:

5 A. By failing to keep adequate and accurate records of the multiple operative
6 procedures he performed; and

7 B. By failing to seek consultation with a more experienced cosmetic surgery
8 specialist and repeatedly treating the breast deformity by merely replacing the breast
9 implants.

10 SECOND CAUSE FOR DISCIPLINE

11 (Repeated Negligent Acts)

12 16. Respondent is subject to disciplinary action under section 2234, subsection
13 (c) of the Code in that he committed repeated acts of negligence in the care and treatment of
14 patient A.M. The circumstances are as follows:

15 17. Paragraphs 12 through 14 are incorporated by reference as if set forth in
16 full.

17 18. Respondent committed repeated acts of negligence in the care and
18 treatment of patient A.M. as follows:

19 A. By failing to keep adequate and accurate records of the multiple operative
20 procedures he performed;

21 B. By failing to seek consultation with a more experienced cosmetic surgery
22 specialist and repeatedly treating the breast deformity by merely replacing the breast
23 implants; and

24 C. By failing to understand and treat the seroma formation in the patient's
25 breasts in multiple follow-up procedures.

26 THIRD CAUSE FOR DISCIPLINE

27 (Incompetence)

28 19. Respondent is subject to disciplinary action under section 2234, subsection

(d) of the Code in that he committed acts of incompetence in his care and treatment of patient A.M. The circumstances are as follows:

20. Paragraphs 12 through 14 are incorporated by reference as if set forth in full.

21. Respondent committed acts of incompetence in the care and treatment of patient A.M. as follows:

A. By failing to keep adequate and accurate records of the multiple operative procedures he performed;

B. By failing to seek consultation with a more experienced cosmetic surgery specialist and repeatedly treating the breast deformity by merely replacing the breast implants; and

C. By failing to understand and treat the seroma formation in the patient's breasts in multiple follow-up procedures.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct-- Record Keeping)

22. Respondent is subject to disciplinary action under section 2266 of the Code in that he committed unprofessional conduct by failing to maintain adequate and accurate records relating to the provision of services in his care and treatment of patient A.M. The circumstances are as follows:

23. Paragraphs 12 through 14 are incorporated by reference as if set forth in full.

24. Respondent committed unprofessional conduct regarding his record-keeping in the care and treatment of patient A.M. as follows:

A. By failing to keep adequate and accurate records of the multiple operative procedures he performed.

FIFTH CAUSE FOR DISCIPLINE

(Gross Negligence)

25. Respondent is subject to disciplinary action under section 2234, subsection

1 (b), in that he committed acts of gross negligence in the care and treatment of patient M.B. The
2 circumstances are as follows:

3 26. On or about October 16, 1998, patient M.B., a male patient who was 59 at
4 the time, consulted with Respondent and sought correction of impaired visual fields. On or about
5 November 3, 1998, Respondent performed a forehead lift, facelift, and quadrilateral
6 blephoroplasty on the patient. Respondent produced no narrative operative notes or summary for
7 the procedure, which took approximately 12 hours to perform. On or about November 7, 1998,
8 the patient's eyelids required support by taping.

9 27. On or about February 3, 1999, Respondent performed a revision surgery
10 on patient M.B. to correct multiple problems resulting from the first operation. This revision was
11 focused on the eyelids, earlobe, and chin. The patient consent form Respondent provided for the
12 procedure calls the operation a "tweaking procedure." Respondent produced no narrative
13 operative notes or summary for the procedure, which took approximately 8 hours to perform.

14 28. Respondent next saw patient M.B. on February 9, 1999, and taped his
15 eyelids. The patient thereafter was instructed again regarding eyelid taping technique on March
16 10, 1999, as he continued to have eyelid support problems. On or about April 28, 1999, the
17 patient saw another physician, Polly McKinstry, M.D., an ophthalmologist who diagnosed him
18 with Sjogren's syndrome and recommended an eyelid elevating operation to address the
19 continued downward displacement of the eyelids that the patient was experiencing.

20 29. On or about May 6, 1999, patient M.B. returned to Respondent to have
21 the procedure Dr. McKinstry recommended be performed. Respondent's handwritten note of the
22 operation indicates that the globes were in a "forward position" and that he intended to "shorten
23 the lower eyelid." Respondent performed a procedure to shorten the lower lid. Although
24 Respondent was to do a resuspension procedure of the left lower lid, his note indicates that only a
25 scar revision was done at the lateral lower lid, not a cheek elevation or flap elevation of the lid
26 such as was recommended by Dr. McKinstry. Respondent made no narrative operative note of
27 the procedure. The consent form for the procedure indicates that Respondent was to perform a
28 suspensory procedure, yet he apparently did not undertake such a procedure. Respondent claims

1 that he does not perform suspensary operations.

2 30. Respondent also failed to note a scar revision that he subsequently
3 performed on patient M.B. anywhere in the patient's medical records.

4 31. Respondent committed acts of gross negligence in the care and treatment
5 of patient M.B. as follows:

6 A. By failing to procure the patient's informed consent to the procedures he
7 performed;

8 B. By failing to produce operative reports that adequately and accurately
9 described the procedures he performed; and

10 C. By failing to maintain adequate and accurate medical records reflecting the
11 care and treatment he provided to the patient.

12 SIXTH CAUSE FOR DISCIPLINE

13 (Repeated Negligent Acts)

14 32. Respondent is subject to disciplinary action under section 2234, subsection
15 (c) of the Code in that he committed repeated acts of negligence in the care and treatment of
16 patient M.B. The circumstances are as follows:

17 33. Paragraphs 26 through 30 are incorporated by reference as if set forth in
18 full.

19 34. Respondent committed repeated acts of negligence in the care and
20 treatment of patient M.B. as follows:

21 A. By failing to procure the patient's informed consent to the procedures he
22 performed;

23 B. By failing to produce operative reports that adequately and accurately
24 described the procedures he performed; and

25 C. By failing to maintain adequate and accurate medical records reflecting the
26 care and treatment he provided to the patient.

27 ///

28 ///

1 care and treatment he provided to the patient.

2
3 NINTH CAUSE FOR DISCIPLINE

4 (Gross Negligence)

5 41. Respondent is subject to disciplinary action under section 2234, subsection
6 (b), in that he committed acts of gross negligence in the care and treatment of patient P.K. The
7 circumstances are as follows:

8 42. On or about December 15, 1996, patient P.K., a female patient who was 45
9 years old at the time, underwent an extended facelift (face and forehead), chin implant, and
10 blephoroplasty, all of which was performed by Respondent. A KTP vascular laser treatment on
11 the patient's face was also scheduled and paid for, but this procedure was not performed.
12 Respondent did not produce any narrative operative notes for the procedure.

13 43. On or about March 10, 2000, Respondent performed a retroauricular
14 scar revision of the right retroauricular scar and neck of patient P.K. No anesthesia was used, and
15 the patient experienced extreme pain, discomfort, and psychological trauma both during and after
16 the procedure. Following the procedure and during the immediate post-operative period, patient
17 P.K. made numerous attempts to contact Respondent regarding her condition, but Respondent
18 failed to respond to any of the patient's communications. Respondent did not produce any
19 narrative operative notes for the procedure, nor did he produce any progress notes regarding the
20 patient's post-operative condition.

21 44. Respondent committed acts of gross negligence in the care and treatment
22 of patient P.K. as follows:

23 A. By failing to produce any narrative operative notes for the procedures he
24 performed;

25 B. By failing to produce any progress notes regarding the patient's post-
26 operative condition; and

27 C. By abandoning the patient in the post-operative stage of her treatment and
28 care.

1 care; and

2 D. By failing to use satisfactory anesthesia on the patient during the March
3 10, 2000 procedure.

4 TWELFTH CAUSE FOR DISCIPLINE

5 (Unprofessional Conduct-- Record Keeping)

6 51. Respondent is subject to disciplinary action under section 2266 of the
7 Code in that he committed unprofessional conduct by failing to maintain adequate and accurate
8 records relating to the provision of services in his care and treatment of patient P.K. The
9 circumstances are as follows:

10 52. Paragraphs 42 and 43 are incorporated by reference as if set forth in full.

11 53. Respondent committed unprofessional conduct regarding his record-
12 keeping in the care and treatment of patient P.K.. as follows:

13 A. By failing to produce any narrative operative notes for the procedures he
14 performed; and

15 B. By failing to produce any progress notes regarding the patient's post-
16 operative condition.

17 THIRTEENTH CAUSE FOR DISCIPLINE

18 (Gross Negligence)

19 54. Respondent is subject to disciplinary action under section 2234, subsection
20 (b), in that he committed acts of gross negligence in the care and treatment of patient E.S. The
21 circumstances are as follows:

22 55. On or about September 19, 2001, patient E.S. consulted with respondent
23 regarding a rhinoplasty revision and breast surgery (bilateral capsulectomies and implant
24 replacement). Patient E.S. wanted relief from capsular contractions but did not want her breasts
25 to be made larger. She had 300 cc breast implants from a prior procedure by another physician.

26 56. On or about November 20, 2001, respondent performed a rhinoplasty
27 revision and breast surgery (bilateral capsulectomies and implant replacement) on patient E.S.
28 The implants were 400 ml gel implants. Post operatively, patient E.S. complained to respondent

1 that the implants were too large and that her breasts were asymmetric; the left was larger than the
2 right. A second procedure was scheduled.

3 57. On or about December 12, 2001, respondent performed a bilateral
4 explantation of breast prosthesis with secondary augmentation mammoplasty (removal and
5 replacement of both breast implants). Respondent placed a 400 ml gel implant on patient E.S.'s
6 left (larger) side and a 360 ml gel implant on the patient's right (smaller) side. Respondent failed
7 to notice that he had put the implants in the wrong sides before completing the procedure.

8 58. Respondent committed acts of gross negligence in the care and treatment
9 of patient E.S. as follows:

10 A. On or about November 20, 2001, respondent ignored the patient's express
11 desire for smaller breast size bilaterally;

12 B. On or about December 12, 2001, respondent ignored the patient's express
13 desire for a smaller breast size bilaterally; and

14 C. On or about December 12, 2001, respondent placed the intended left
15 implant on the right side and the intended right implant on the left side.

16 FOURTEENTH CAUSE FOR DISCIPLINE

17 (Repeated Negligent Acts)

18 59. Respondent is subject to disciplinary action under section 2234, subsection
19 (c), in that he committed repeated acts of negligence in the care and treatment of patient E.S.
20 The circumstances are as follows:

21 60. Paragraphs 55 through 57 are incorporated by reference as if set forth in
22 full.

23 61. Respondent committed repeated acts of negligence as follows:

24 A. On or about November 20, 2001, respondent ignored the patient's express
25 desire for smaller breast size bilaterally;

26 B. On or about December 12, 2001, respondent ignored the patient's express
27 desire for a smaller breast size bilaterally; and

28 C. On or about December 12, 2001, respondent placed the intended left

1 implant on the right side and the intended right implant on the left side.

2 FIFTEENTH CAUSE FOR DISCIPLINE

3 (Incompetence)

4 62. Respondent is subject to disciplinary action under section 2234, subsection
5 (d) of the Code in that he committed acts of incompetence in his care and treatment of patient
6 E.S. The circumstances are as follows:

7 63. Paragraphs 55 through 57 are incorporated by reference as if set forth in
8 full.

9 64. Respondent committed acts of incompetence in the care and
10 treatment of patient E.S. as follows:

11 A. On or about November 20, 2001, respondent ignored the patient's express
12 desire for smaller breast size bilaterally;

13 B. On or about December 12, 2001, respondent ignored the patient's express
14 desire for a smaller breast size bilaterally; and

15 C. On or about December 12, 2001, respondent placed the intended left
16 implant on the right side and the intended right implant on the left side.

17 SIXTEENTH CAUSE FOR DISCIPLINE

18 (Unprofessional Conduct-- Record Keeping)

19 65. Respondent is subject to disciplinary action under section 2266 of the
20 Code in that he committed unprofessional conduct by failing to maintain adequate and accurate
21 records relating to the provision of services in his care and treatment of patient E.S. The
22 circumstances are as follows:

23 66. Paragraphs 55 through 57 are incorporated by reference as if set forth in
24 full.

25 67. Respondent committed unprofessional conduct regarding his record-
26 keeping in the care and treatment of patient E.S. by failing to adequately and accurately record
27 the circumstances of pre-operative office visits on or about September 19, 2001, and in or
28 around December 2001 and by failing to adequately and accurately record post-operative

1 circumstances on and after December 12, 2001.

2 SEVENTEENTH CAUSE FOR DISCIPLINE

3 (Impaired Ability to Practice Medicine Because of Physical Illness)

4 68. Respondent is subject to disciplinary action under section 822 of the Code
5 in that his ability to practice medicine is impaired because he is physically ill. The circumstances
6 are as follows:

7 A. In or around May 2004, respondent suffered a cerebral vascular
8 accident (stroke). As a consequence of the stroke, respondent's ability to practice
9 medicine safely is impaired.

10 EIGHTEENTH CAUSE FOR DISCIPLINE

11 (Incompetence)

12 69. Respondent is subject to discipline under section 2234, subdivision (d),
13 of the Code because of his incompetence. The facts and circumstances are set forth in paragraph
14 68 above, which facts and circumstances are incorporated by this reference as if fully set forth
15 here.

16 CAUSE FOR REVOCATION OF PROBATION

17 (Failure to Obey Laws)

18 70. At all times after the effective date of Respondent's probation, Condition
19 C stated:

20 "Respondent shall obey all federal, state and local laws, all rules governing the practice of
21 medicine in California, and remain in full compliance with any court ordered criminal
22 probation, payments and or any other judicial orders."

23 71. Respondent's probation is subject to revocation because he failed to
24 comply with Probation Condition C, referenced above. The facts and circumstances regarding
25 this violation are as follows:

26 A. Respondent committed violations of Business and Professions
27 Code sections 2234, subdivisions (b), (c) and (d) and 2266 as more specifically set forth
28 in paragraphs 54 through 67 above.

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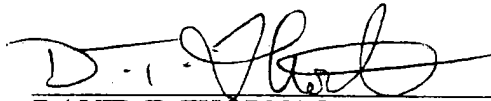
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5. Taking such other and further action as deemed necessary and proper.

DATED: March 9, 2005



DAVID T. THORNTON
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

50021975.wpd

EXHIBIT A TO FIRST AMENDED ACCUSATION
AND PETITION TO REVOKE PROBATION

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)

Against:)

WALTER J. LEDERGERBER, M.D.)

No.: 04-1998-92607

Certificate No. A-32530)

Respondent.)

ORDER CORRECTING CLERICAL ERROR IN
"EFFECTIVE DATE" PORTION OF DECISION

On its own motion, the Division of Medical Quality (hereafter "division") finds that there is a clerical error in the "effective date" portion of the Decision in the above-entitled matter and that such clerical error should be corrected so that the effective date will confirm to the division's intention.

IT IS HEREBY ORDERED that the effective date contained in the Decision in the above-entitled matter be and is hereby amended and corrected nunc pro tunc as of the date of entry of the decision to read as follows:

"This Decision shall become effective at 5:00 p.m. on July 17, 2000."

IT IS SO ORDERED: June 15, 2000.


IRA LUBELL, M.D.

President

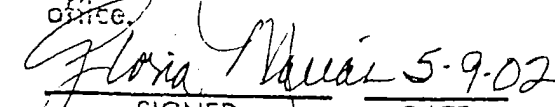
Division of Medical Quality

MEDICAL BOARD OF CALIFORNIA

I do hereby certify that
this document is true
and correct copy of the
original on file in this
office.

SIGNED

DATE


5-9-02

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

WALTER J. LEDERGERBER, M.D.)
Certificate No. A-32530)

No: 04-1998-92607

Respondent)

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Division of Medical Quality as its Decision in the above-entitled matter.

This Decision shall become effective at 5:00 p.m. on June 15, 2000.

IT IS SO ORDERED July 17, 2000.

By: _____

IRA LUBELL, M.D.

President

Division of Medical Quality

1 BILL LOCKYER, Attorney General
of the State of California
2 D. KENNETH BAUMGARTEN
Deputy Attorney General
3 State Bar No. 124371
California Department of Justice
4 110 West A Street, Suite 1100
Post Office Box 85266
5 San Diego, California 92816-5266
Telephone: (619) 645-2195
6

7 Attorneys for Complainant

8 BEFORE THE
DIVISION OF MEDICAL QUALITY
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:)	CASE NO. 04-1998-92607
)	
12 WALTER JOSEPH LEDERGERBER, M.D.)	OAH NO. L-1999120407
1401 Avocado Street, Suite 202)	
13 Newport Beach, CA 92660)	STIPULATED SETTLEMENT
)	AND
14 Physician's and Surgeon's)	DISCIPLINARY ORDER
Certificate No. A 32530)	
)	
)	
15)	
)	
16 _____ Respondent.)	

17

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to
19 the above-entitled proceedings that the following matters are true:

20 1. Accusation number 04-1998-92607 was filed with the Division of Medical
21 Quality of the Medical Board of California, Department of Consumer Affairs, hereinafter the
22 "Division", on September 20, 1999, and is currently pending against Walter Joseph
23 Ledergerber, M.D., hereinafter the "Respondent".

24 2. The Accusation, together with all statutorily required documents, were
25 duly served on Respondent on or about September 20, 1999. On October 28, 1999,
26 Respondent filed his Notice of Defense. A copy of Accusation No.04-1998-92607 is attached
27 hereto as Exhibit A and is hereby incorporated by reference as if fully set forth herein.

28 ///

1 3. Complainant, Ron Joseph, is the Executive Director of the Medical
2 Board of California and has brought this action solely in his official capacity. The
3 Complainant is represented by the Attorney General of California, Bill Lockyer, by Deputy
4 Attorney General D. Kenneth Baumgarten.

5 4. At all times relevant herein, Respondent has been licensed by the
6 Medical Board of California under Physician's and Surgeon's Certificate No. A 32530.

7 5. Respondent is represented in this matter by Albert Garcia of the Law
8 Offices of Albert Garcia, 1995 University Avenue, Suite 265, Berkeley, CA 94704;
9 (510) 848-5190.

10 6. Respondent and his attorney have fully read and discussed the charges
11 contained in Accusation No.04-1998-92607. Respondent hereby acknowledges that he has
12 been fully advised of his legal rights and the effects of this Stipulated Settlement and
13 Disciplinary Order.

14 7. Respondent understands the nature of the charges alleged in the
15 Accusation and that, if proven at a hearing, the charges and allegations would constitute cause
16 for imposing discipline upon his Physician and Surgeon's Certificate. Respondent is fully
17 aware of his right to a hearing on the charges contained in the Accusation, his right to
18 confront and cross-examine witnesses against him, his right to the use of subpoenas to compel
19 the attendance of witnesses and the production of documents in both defense and mitigation of
20 the charges, his right to reconsideration, court review and any and all other rights accorded
21 by the California Administrative Procedure Act and other applicable laws.

22 8. Respondent knowingly, voluntarily and irrevocably waives and gives up
23 each of these rights.

24 9. The parties further agree that the admissions and recitals stated herein are
25 for the purpose of this proceeding only, or in any other proceeding between Respondent and
26 the Board or between Respondent and any other licensing and/or regulatory agency.

27 10. For the purpose of resolving Accusation No. 04-1998-92607, Respondent
28 agrees there exists a factual basis for the charges in the Accusation and that Respondent

1 hereby gives up his right to contest those charges. Respondent agrees to be bound by the
2 Division's Disciplinary Order set forth below.

3 Based on the foregoing admissions and stipulated matters, the parties agree that
4 the Division shall, without further notice or formal proceeding, issue and enter the
5 following order:

6 10. DISCIPLINARY ORDER

7 IT IS HEREBY ORDERED that Physician and Surgeon's Certificate number
8 A 32530, issued to Walter Joseph Ledergerber, M.D., is revoked. However, such
9 revocation is hereby stayed by the Division and Respondent is placed on two (2) years
10 probation. During the term of probation, Respondent shall comply with the Division's
11 Probation Surveillance Program and the following terms and conditions:

12 A. ETHICS COURSE

13 Within ninety (90) days of the Stipulation Effective Date, Respondent shall
14 enroll in an Ethics course approved in advance by the Division or its designee, and shall
15 successfully complete the course during the first year of probation.

16 B. RESTITUTION TO INSURANCE COMPANY

17 Within ninety (90) days of the Stipulation Effective Date, Respondent shall pay
18 the sum of \$6,485.00 to Great West Life and Annuity Company as restitution for payments
19 made to Respondent on behalf of patient Victoria B. The restitution payment shall be made to
20 Great West Health Plan, Attention Ms. Heather Murrell, Legal Analyst, Recovery Unit,
21 8515 East Orchard Road, Englewood, Colorado, 80111.

22 C. OBEY ALL LAWS

23 Respondent shall obey all federal, state and local laws, all rules governing the
24 practice of medicine in California, and remain in full compliance with any court ordered
25 criminal probation, payments and or any other judicial orders.

26 D. PROBATION SURVEILLANCE PROGRAM COMPLIANCE

27 Respondent shall comply with the Division's probation surveillance program.
28 Respondent shall, at all times, keep the Division informed of his business and residence

1 addresses which shall both serve as addresses of record. Changes of such addresses shall be
2 immediately communicated in writing to the Division. Under no circumstances shall a post
3 office box serve as an address of record.

4 Respondent shall also immediately inform the Division, in writing, of any
5 travel to areas outside the jurisdiction of California which lasts, or is contemplated to last,
6 more than thirty (30) days.

7 E. QUARTERLY REPORTS

8 Respondent shall submit to the Division or its designee, on forms provided by
9 the Division, quarterly declarations signed under penalty of perjury, stating whether he
10 has complied with all conditions of his probation with the Medical Board of California and
11 court-ordered criminal probation, if any.

12 F. INTERVIEWS WITH THE DIVISION, ITS DESIGNEE
13 OR ITS DESIGNATED PHYSICIAN(S)

14 Respondent shall appear in person for interviews with the Division, its
15 designee or its designated physician(s) upon request at various intervals and with reasonable
16 notice.

17 G. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE
18 OR IN-STATE NON-PRACTICE

19 In the event respondent should leave California to reside or to practice outside
20 the State or for any reason should respondent stop practicing medicine in California,
21 respondent shall notify the Division or its designee in writing within ten (10) days of the dates
22 of departure and return or the dates of non-practice within California. Non-practice is defined
23 as any period of time exceeding thirty (30) consecutive days in which respondent is not
24 engaging in any activities defined in Sections 2051 and 2052 of the Business and Professions
25 Code.

26 All time spent by Respondent in an intensive training program approved by the
27 Division or its designee, or time spent seeking employment that complies with the terms and
28 conditions of this agreement, shall be considered as time spent in the practice of medicine.

1 Periods of temporary or permanent residence or practice outside California or of non-practice
2 within California, as defined in this condition, will not apply to the reduction of the
3 probationary period.

4 H. COMPLETION OF PROBATION

5 Upon successful completion of probation, respondent's certificate shall be fully
6 restored.

7 I. VIOLATION OF PROBATION

8 Respondent's violation of any term or provision under this agreement, or any
9 term or condition imposed by the Division's Probation and Diversion Programs, will
10 constitute a violation of probation.

11 If Respondent violates probation in any respect, the Division, after giving
12 Respondent notice and the opportunity to be heard, may revoke probation and carry out the
13 disciplinary order that was stayed. If an accusation or petition to revoke probation is filed
14 against Respondent during probation, the Division shall have continuing jurisdiction until the
15 matter is final, and the period of probation shall be extended until the matter is final.

16 J. COST RECOVERY

17 Respondent shall reimburse the Division for its investigative and prosecution
18 costs in the amount of \$4,000.00. Such costs shall be payable to the Medical Board of
19 California, Division of Medical Quality and are due within one hundred and eighty (180) days
20 of the Stipulation Effective Date.

21 Failure to pay this cost recovery shall constitute a violation of probation. The
22 filing of bankruptcy by Respondent shall not relieve him of the responsibility to reimburse the
23 Division for its investigative and prosecution costs in this action.

24 K. PROBATION COSTS

25 Respondent shall pay the costs associated with probation monitoring each and
26 every year of probation, which are currently set at approximately \$2304.00. These costs may
27 be adjusted by the Division on an annual basis. Such costs shall be payable to the Division of
28 Medical Quality and delivered to the designated probation surveillance monitor at the

1 beginning of each calendar year. Failure to pay costs within 30 days of the due date shall
2 constitute a violation of probation.

3 L. LICENSE SURRENDER

4 Following the effective date of this decision, if Respondent ceases the practice
5 of medicine due to retirement, health reasons or is otherwise unable to satisfy the terms and
6 conditions of probation, Respondent may voluntarily tender his license certificate to the
7 Board. The Division reserves the right to evaluate the Respondent's request and to exercise
8 its discretion whether to grant the request, or to take any other action deemed appropriate and
9 reasonable under the circumstances. Upon formal acceptance of the tendered license,
10 Respondent will no longer be subject to the terms and conditions of probation.

11 CONTINGENCY

12 This stipulation shall be subject to the approval of the Division of Medical
13 Quality. Respondent understands and agrees that Board staff and counsel for Complainant
14 may communicate directly with the Division regarding this stipulation and settlement, without
15 notice to or participation by Respondent or his counsel.

16 If the Division fails to adopt this stipulation as its Order, the stipulation shall
17 be of no force or effect, it shall be inadmissible in any legal action between the parties, and
18 the Division shall not be disqualified from further action in this matter by virtue of its
19 consideration of this stipulation.

20 ACCEPTANCE

21 I have read the above Stipulated Settlement and Disciplinary Order. I have
22 fully discussed the terms and conditions and other matters contained therein with my attorney,
23 Albert J. Garcia, Esq. I understand the effect this Stipulated Settlement and Disciplinary

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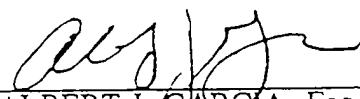
1 Order will have on my Physician and Surgeon's Certificate, and agree to be bound thereby.
2 I enter this stipulation freely, knowingly, intelligently and voluntarily.

3 DATED: 5/19/00

4 
5 WALTER JOSEPH LEDERGERBER, M.D.
6 Respondent

7 I have read and have fully discussed the terms and conditions and other matters
8 contained in the above Stipulated Settlement and Disciplinary Order with Respondent
9 Walter Joseph Ledergerber, M.D., and approve of its form and content.

10 DATED: 5/17/00


11 
12 ALBERT J. GARCIA, Esq.
13 Attorney for Respondent

14 ENDORSEMENT

15 The foregoing Stipulated Settlement and Disciplinary Order is hereby
16 respectfully submitted for consideration by the Division of Medical Quality, Medical Board of
17 California, Department of Consumer Affairs.

18 DATED: May 1, 2000

19 BILL LOCKYER, Attorney General
20 of the State of California

21 
22 D. KENNETH BAUMGARTEN
23 Deputy Attorney General
24 Attorneys for Complainant

25 Exhibit A: Accusation No. 04-1998-92607
26
27
28

EXHIBIT A

1 BILL LOCKYER, Attorney General
of the State of California
2 SAMUEL K. HAMMOND,
Deputy Attorney General, State Bar No. 141135
3 Department of Justice
110 West A Street, Suite 1100
4 Post Office Box 85266
San Diego, California 92186-5266
5 Telephone: (619) 645-2083

6 Attorneys for Complainant

7
8 BEFORE THE
9 DIVISION OF MEDICAL QUALITY
10 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

11 In the Matter of the Accusation) NO. 04-1998-92607
12 Against:)
13)
13 WALTER JOSEPH LEDERGERBER M.D.) A C C U S A T I O N
14 1401 Avocado Street, Suite 202)
14 Newport Beach, California 92660)
15)
15 Physician's and Surgeon's)
16 Certificate No. A 32530)
16)
17 Respondent.)

18
19 - Complainant Ron Joseph, as cause for disciplinary
20 action, alleges:

21 PARTIES

22 1. Complainant is the Executive Director of the
23 Medical Board of California ("Board") and makes and files this
24 accusation solely in his official capacity.

25 License Status

26 2. On or about July 1, 1978, Physician's and
27 Surgeon's Certificate No. A 32530 was issued by the Board to

1 Walter Joseph Ledergerber, M.D. ("respondent"), and at all times
2 relevant herein, said certificate was, and currently is, in full
3 force and effect. This certificate is valid with an expiration
4 date of June 30, 2000.

5 JURISDICTION

6 3. This accusation is made with reference to the
7 following statutes of the California Business and Professions
8 Code ("Code"):

9 A. Code section 2227 provides as relevant hereto
10 that the Division of Medical Quality of the Board
11 ("Division") may revoke, suspend for a period not to exceed
12 one year, or place on probation and order the payment of
13 probation monitoring costs, the license of any licensee who
14 has been found guilty under the Medical Practice Act.

15 B. Code section 2234 provides as relevant hereto
16 that unprofessional conduct includes, but is not limited to,
17 the following:

18 "(a) Violating or attempting to violate, directly
19 or indirectly, or assisting in or abetting the
20 violation of, or conspiring to violate, any
21 provision of this chapter.

22 "(b) Gross negligence.

23 "(c) Repeated negligent acts

24 ". . . ."

25 "(e) The commission of any act of dishonesty or
26 corruption which is substantially related to the

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1 qualifications, functions, or duties of a physician and
2 surgeon."

3 C. Code section 810(a) provides as relevant
4 hereto that it shall constitute unprofessional conduct for a
5 health care professional to do any of the following:

6 "(1) Knowingly present or cause to be presented
7 any false or fraudulent claims for payment of loss
8 under a contract of insurance.

9 "(2) Knowingly prepare, make, or subscribe any
10 writing, with intent to present or use the same,
11 or allow it to be presented or used in support of
12 any false or fraudulent claim."

13 D. Code section 125.3 provides as relevant
14 hereto that the Board may request the administrative law
15 judge to direct any licentiate found to have committed a
16 violation or violations of the licensing act, to pay the
17 Board a sum not to exceed the reasonable costs of the
18 investigation and enforcement of the case.

19 4. Section 14124.12 of the Welfare and Institutions
20 Code provides, as relevant hereto, that upon receipt of written
21 notice from the Board that a licensee's license has been placed
22 on probation as a result of a disciplinary action, the Department
23 of Health Services (department) of the State of California may
24 not reimburse any Medi-Cal claim for the type of surgical service
25 or invasive procedure that gave rise to the probation that was
26 performed by the licensee on or after the effective date of
27 probation and until the termination of all probationary terms and

1 conditions or until the probationary period has ended, whichever
2 occurs first. This section shall apply except in any case in
3 which the Board determines that compelling circumstances warrant
4 the continued reimbursement during the probationary period of any
5 Medi-Cal claim for services. In such a case, the department
6 shall continue to reimburse the licensee for all procedures,
7 except for those invasive or surgical procedures for which the
8 licensee was placed on probation.

9 FIRST CAUSE FOR DISCIPLINARY ACTION

10 (Gross Negligence)

11 5. Respondent Walter Joseph Ledergerber, M.D., is
12 subject to disciplinary action on account of the following:

13 Patient V.B.

14 A. On or about July 7, 1998, this patient went
15 to respondent's offices located at 1401 Avocado,
16 Newport Beach, California, for consultation on her existing
17 chin implant. The chin implant, placed by another surgeon
18 in about 1990, had become displaced. During the
19 consultation, respondent told the patient he would replace
20 the implant with a smaller one. During the consultation,
21 respondent examined the "dip" in the bridge of the patient's
22 nose. Respondent told the patient the "dip" could be fixed
23 by inserting a small implant into the bridge of her nose.
24 Respondent also said the patient would realize an added
25 benefit of improved breathing from this procedure.

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1 B. The patient agreed to undergo surgery to
2 replace the chin implant and to fix the bridge in her nose.
3 The surgery was scheduled for August 17, 1998. The patient
4 told respondent she suffered from tachycardia and was in the
5 care of a cardiologist. Respondent told the patient and a
6 physician friend of the patient that he was a certified
7 plastic surgeon. The patient paid approximately \$4,700 for
8 the surgery to replace the chin implant and to fix the
9 bridge.

10 C. On or about August 17, 1998, the patient
11 presented for the planned surgical procedures. Toward the
12 end of the first procedure (to fix the "dip" in the bridge
13 of the patient's nose), the patient went into super-
14 ventricular tachycardia. Respondent aborted the operation
15 and transferred the patient to the care of her cardiologist.
16 On or about August 26, 1998, respondent performed the
17 procedure to replace the chin implant.

18 D. On or about September 8, 1998, respondent
19 submitted a bill to the patient's insurance company for
20 payment for the surgical procedures. On the claim form,
21 respondent stated he performed two major surgical procedures
22 on the patient on August 17, 1998 and August 26, 1998.
23 Respondent stated he performed an open treatment of the
24 nasal fracture and septal fracture on the patient on
25 August 17, 1998. He identified 802.0 as the Diagnosis Code
26 and 21335 as the CPT (Current Procedural Terminology) Code.
27 This statement is false.

1 E. Respondent also stated that on August 26,
2 1998, he performed reconstruction of the patient's mandible,
3 and also performed a muscle, mycutaneous, or fasciocutaneous
4 flap on the patient. Respondent identified 802.26 as the
5 Diagnosis Code and 21245 and 15732 as the CPT Codes. This
6 statement is false. The patient's insurance company paid
7 respondent based on these false claims.

8 6. Respondent Walter Joseph Ledergerber, M.D., has
9 committed acts or omissions constituting gross negligence, in
10 violation of Code section 2234(b), in that:

11 A. Complainant realleges all matters set forth
12 in Paragraph 5, above.

13 B. Respondent submitted an insurance claim in
14 which he contained the false statement that on August 17,
15 1998, respondent performed an open treatment of the nasal
16 fracture and septal fracture on the patient.

17 C. Respondent submitted an insurance claim
18 which contained the false statement that on August 26, 1998,
19 he performed reconstruction of the patient's mandible.

20 D. Respondent submitted an insurance claim
21 which contained the false statement that on August 26, 1998,
22 he performed a muscle, myocutaneous or fasciocutaneous flap
23 on the patient.

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1 SECOND CAUSE FOR DISCIPLINARY ACTION

2 (Repeated Negligent Acts)

3 7. Respondent Walter Joseph Ledergerber, M.D., has
4 committed acts or omissions constituting repeated negligent acts,
5 in violation of Code section 2234(c), in that:

6 A. Complainant realleges all matters set forth
7 in Paragraph 5, above.

8 B. Respondent submitted an insurance claim in
9 which contained the false statement that on August 17, 1998,
10 respondent performed an open treatment of the nasal fracture
11 and septal fracture on the patient.

12 C. Respondent submitted an insurance claim
13 which contained the false statement that on August 26, 1998,
14 he performed reconstruction of the patient's mandible.

15 D. Respondent submitted an insurance claim which
16 contained the false statement that on August 26, 1998, he
17 performed a muscle, myocutaneous or fasciocutaneous flap on
18 the patient.

19 THIRD CAUSE FOR DISCIPLINARY ACTION

20 (Insurance Fraud)

21 8. Respondent Walter Joseph Ledergerber, M.D., has
22 committed acts or omissions constituting insurance fraud in
23 violation of Code section 810, in that:

24 A. Complainant realleges all matters set forth
25 in Paragraph 6, above.

26 B. Respondent submitted an insurance claim in
27 which contained the false statement that on August 17, 1998,

1 respondent performed an open treatment of the nasal fracture
2 and septal fracture on the patient.

3 C. Respondent submitted an insurance claim
4 which contained the false statement that on August 26, 1998,
5 he performed reconstruction of the patient's mandible.

6 D. Respondent submitted an insurance claim
7 which contained the false statement that on August 26, 1998,
8 he performed a muscle, myocutaneous or fasciocutaneous flap
9 on the patient.

10 FOURTH CAUSE FOR DISCIPLINARY ACTION

11 9. Respondent Walter Joseph Ledergerber, M.D., has
12 committed acts involving dishonesty or corruption which are
13 substantially related to the qualifications, functions or duties
14 of the physician and surgeon, in violation of Code section
15 2234(e), in that:

16 A. Complainant realleges all matters set forth
17 in Paragraph 5, above.

18 B. Respondent submitted an insurance claim in
19 which contained the false statement that on August 17, 1998,
20 respondent performed an open treatment of the nasal fracture
21 and septal fracture on the patient.

22 C. Respondent submitted an insurance claim
23 which contained the false statement that on August 26, 1998,
24 he performed reconstruction of the patient's mandible.

25 D. Respondent submitted an insurance claim which
26 contained the false statement that on August 26, 1998,

27 ///

1 he performed a muscle, myocutaneous or fasciocutaneous flap
2 on the patient.


3 E. Respondent falsely stated to patient V.B. and
4 her physician friend, that he was a certified plastic
5 surgeon.

6 PRAYER

7 WHEREFORE, the complainant requests that a hearing be
8 held on the matters herein alleged, and that following the
9 hearing, the Division issue a decision:

- 10 1. Revoking or suspending Physician's and Surgeon's
11 Certificate Number A 32530, heretofore issued to
12 Walter Joseph Ledergerber, M.D.;
- 13 2. Revoking, suspending or denying approval of
14 respondent's authority to supervise physician's
15 assistants, pursuant to section 3527 of the Code;
- 16 3. Ordering respondent to pay the Board the
17 reasonable costs of the investigation and
18 enforcement of this case and, if placed on
19 probation, the costs of probation monitoring; and
- 20 4. Taking such other and further action as the
21 Division deems necessary and proper.

22 DATED: September 20, 1999

23
24 
25 Ron Joseph
26 Executive Director
27 Medical Board of California
Department of Consumer Affairs
State of California
Complainant